

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

TRACY NEIGHBORS and BARBARA
NEIGHBORS; ARUL MENEZES and LUCRETIA
VANDERWENDE; LAKE SAMMAMISH 4257
LLC; HERBERT MOORE and ELYNNE MOORE;
TED DAVIS and ELAINE DAVIS; REID BROWN
and TERESA BROWN; SHAWN HUARTE and
TRINA HUARTE; ANNETTE MCNABB;
EUGENE MOREL and ELIZABETH MOREL;
VOLKER ELSTE and GAIL UREEL; JOHN R.
WARD AND JOANNA WARD, AS CO-
TRUSTEES OF THE WARD HALES LIVING
TRUST; YORK HUTTON; L. LARS KUNDSEN
and LISE SHDO.

Plaintiffs,

vs.

KING COUNTY, a municipal corporation and
political subdivision of the State of Washington,

Defendant.

Cause No.: 2:15-cv-01358

**PLAINTIFF/COUNTERCLAIM
DEFENDANTS' ANSWER TO
KING COUNTY'S
COUNTERCLAIM**

COMES NOW Plaintiffs Tracy Neighbors, Barbara Neighbors, Arul Menezes,
Lucretia Vanderwende, Lake Sammamish 4257 LLC, Herbert Moore, Evelyn Moore, Ted
Davis, Elaine Davis, Reid Brown, Teresa Brown, Shawn Huarte, Trina Huarte, Annette
McNabb, Eugene Morel, Elizabeth Morel, Volker Elste; Gail Ureel; John R. Ward and
Joanna Ward, as Co-Trustees of the Ward Hales Living Trust; York Hutton; L. Lars Kundsén

PLAINTIFF/COUNTERCLAIM DEFENDANTS'
ANSWER TO KING COUNTY'S COUNTERCLAIM -
PAGE 1 - Case No. 15-2-20483-1-SEA

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1 and Lise Shdo, by and through their attorneys of record, and file their Answer to King
2 County's Counterclaim. The paragraph numbers in this response below correspond to the
3 paragraph numbers in Defendant's Answer and Counterclaim:

4 1. Counterclaim ¶ 1 does not contain an allegation against
5 Plaintiffs/Counterclaim Defendants, and therefore Plaintiffs/Counterclaim Defendants are
6 not required to answer.

7 2. Plaintiffs/Counterclaim Defendants deny Counterclaim ¶ 2 in its entirety
8 regarding Defendant's answers to Plaintiffs' Complaint, ¶¶ 1-27.

9 3. Plaintiffs/Counterclaim Defendants own the underlying fee within the former
10 railroad right-of-way that is now a trail/railbanked easement and Plaintiffs/Counterclaim
11 Defendants categorically deny Counterclaim ¶ 3 in its entirety.

12 4. Plaintiffs/Counterclaim Defendants own the underlying fee within the former
13 railroad right-of-way that is now a trail/railbanked easement and Plaintiffs/Counterclaim
14 Defendants categorically deny Counterclaim ¶ 4 in its entirety.

15 5. Plaintiffs/Counterclaim Defendants own the underlying fee within the former
16 railroad right-of-way that is now a trail/railbanked easement and Plaintiffs/Counterclaim
17 Defendants categorically deny Counterclaim ¶ 5 in its entirety.

18 6. Plaintiffs/Counterclaim Defendants own the underlying fee within the former
19 railroad right-of-way that is now a trail/railbanked easement and Plaintiffs/Counterclaim
20 Defendants categorically deny Counterclaim ¶ 6 in its entirety.

1 7. Plaintiffs/Counterclaim Defendants own the underlying fee within the former
2 railroad right-of-way that is now a trail/railbanked easement and Plaintiffs/Counterclaim
3 Defendants categorically deny Counterclaim ¶ 7 in its entirety.

4 **AFFIRMATIVE DEFENSES**

5 For their affirmative defenses to King County's Counterclaim,
6 Plaintiffs/Counterclaim Defendants state as follows:

7 1. King County fails to state a claim against Plaintiffs/Counterclaim Defendants
8 for which relief can be granted.

9 2. King County's claims are barred by the doctrine of laches.

10 3. King County's claims are barred by the doctrine of waiver.

11 4. King County's claims are barred by the doctrine of unclean hands.

12 5. King County's claims fail because Plaintiffs/Counterclaim Defendants own
13 the fee title in the land adjoining and underlying the former railroad right-of-way in King
14 County, Washington which is no longer a railroad purposes easement, but rather, a
15 trail/railbanking easement.

16 6. Plaintiffs/Counterclaim Defendants reserve the right to amend their Answer
17 and assert additional affirmative defenses as additional facts are obtained through further
18 investigation and discovery.

19 WHEREFORE, having fully answered King County's Counterclaim,
20 Plaintiffs/Counterclaim Defendants respectfully request this Court dismiss King County's
21 Counterclaim, together with their costs and expenses herein incurred, and for such other
22 relief as may be just and proper.
23
24
25

Date: September 25, 2015.

By/s/ Thomas E. Hornish

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and

By/s/ Thomas S. Stewart

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on the 25th day of September, 2015, the foregoing was filed electronically with the Clerk of the Court to be served by the operation of the Court's electronic filing system upon all parties of record.

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PLAINTIFF/COUNTERCLAIM DEFENDANTS'
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PAGE 4 - Case No. 15-2-20483-1-SEA

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